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Ordinance 88-11 Prospector

Whereas, the presence of mine tailings which have heavy metals as constituents have been a cause for study and testing in regard to public health and environment; and

Whereas, the exhaustive testing of the soil, air, water and residents of Prospector has not found a health concern to the residents of Park City; and

Whereas, the Environmental Protection Agency ("EPA") has identified the existence of mine tailings with constituent heavy metals in the Prospector area of Park City and has made specific recommendations for mitigation of any potential public health and environmental concerns; and

Whereas, the City Council of Park City, Utah, desires to take every reasonable step to protect the health of its residents by implementing the EPA's recommendations to assure the continued health, safety and welfare of the residents of Park City

Therefore be it ordained by the City Council of Park City, Utah, as follows:

Section 1. Title: The title of this ordinance is the Prospector Landscaping and Maintenance of Soil Cover Ordinance.

Section 2. Area: This Ordinance shall be in full force and effect only in that portion of Park City, Utah described in Exhibit A which is commonly known as that portion which is bounded by State Highway 248 on the north, by the Union Pacific Railroad right-of-way on the south, by Bonanza Drive on the west and by the easterly boundary of the park on the east.

Section 3. Definitions:

Mine Tailings - Any soil which has the following lead concentration: Lead 1000 parts per million (ppm) or greater, as determined by using the Standard Method 15th Edition 302 (Nitric Acid Digestion) analysis by Atomic Absorption Spectrometer Standard. Method 303. Results reported as dry weight.

Approved topsoil - New topsoil is required to be tested and cannot exceed the following: lead 200 ppm; as determined by testing a representative sample at a state certified laboratory using the method described in Section 3 Mine Tailings, above. Results reported as received (not dry weight).

Prospector - That area of Park City described in Section 2, Exhibit A, and shown on Figure 1.

Hazardous Waste - Any tailings, soil, or other material which exceeds the action level of lead at 1000 ppm for the purpose of this Ordinance shall be considered hazardous waste. The testing to be done according to the method described in Section 3, Mine Tailings, above.

New Construction - That construction, requiring a permit issued by Park City for which the permit is issued after the effective date of this Ordinance.

Section 4. Minimum Coverage with Topsoil: All real property within Prospector must be covered and maintained with a minimum cover of 6" of approved topsoil over mine tailings except where such real property is covered by asphalt, concrete or permanent structures or paving materials.

Section 5. Vegetation: All areas in Prospector where real property is covered with six inches or more of approved topsoil must be

from any site. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

Section 9. Certificate of Compliance: Upon application by the owner of record or agent to the Park City Building Department and payment of the fee established by the department, the Park City Building Department shall inspect the applicant's property for compliance with this Ordinance. When the property inspected complies with this Ordinance, a Certificate of Compliance shall be issued to the owner by the Park City Building Department.

Section 10. Disposal: Any work that produces excess tailings not contained on the site according to the standards set forth in this ordinance, must have a representative sample of the soil to be transported off the site tested by a State certified laboratory to determine if it is hazardous waste. If the excess soil is determined to be a hazardous waste it must be transported to a disposal facility approved by the Utah State Health Department. Any work causing tailings to possibly be regenerated to the surface, such as digging, must collect and properly dispose of the tailings either on site according to the standards set forth in this ordinance or off site as required by this Ordinance and state and federal law.

Section 11. Enforcement: With the exception of new construction, which shall be inspected and required to comply in accordance with other City permitting and inspections, this ordinance shall be enforced through voluntary requests for inspections to obtain Certificates of Compliance. If a request is made for the Certificate of Compliance as set forth in Section 9, then the owner of the property shall be required to comply with the standards set forth in this ordinance.

Section 12. Wells: All wells for culinary irrigation or stock watering use are prohibited in the Prospector area.

Section 13. Failure to Comply with Ordinance: The failure to landscape, maintain landscaping, control dust or dispose of tailings are required by this Ordinance shall constitute a public nuisance as determined by the City Council of Park City.

Section 14. Severability: If any section or portion of this ordinance is declared unconstitutional or unenforceable by a Court of competent jurisdiction, the remainder of the ordinance shall remain in full force and effect.

Section 15. Effective Date: This ordinance shall take effect immediately on the date of its first publication.

Passed and adopted this 8th day of December, 1988.

This ordinance is hereby published in its entirety and will take effect upon its publication. This and all other Park City ordinances may be seen in their entirety at the office of the City Recorder, 445 Marsac Avenue during regular business hours.

Anita Sheldon, City Recorder
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material.
Section 5. Vegetation: All areas in Prospector where real property is covered with six inches or more of approved topsoil must be vegetated with plant material suitable to prevent erosion of topsoil.

Section 6. Additional Landscaping Requirements: In addition to the Minimum coverage of topsoil requirements set forth in Section 4 and the vegetation requirements set forth in Section 5, the following additional requirements shall also be applicable:

a. Flower or vegetable planting bed at grade - All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of 24" of approved topsoil so that tailings are not mixed with the soil through normal tilling procedures. Such topsoil shall extend 12" beyond the edge of the flower or vegetable planting bed.

b. Flower or vegetable planting bed above grade - All flower or vegetable planting beds above grade shall extend a minimum of 18" above the grade of the 6" of approved topsoil cover and shall contain only approved topsoil.

c. Shrubs and Trees - All shrubs planted after the passage of this Ordinance shall be surrounded by approved topsoil for an area which is three times bigger than the rootball and extends 6 inches below the lowest root of the shrub at planting. All trees planted after the passage of this Ordinance shall have a minimum of 18" of approved topsoil around the rootball with a minimum of 12" of approved topsoil below the lowest root of the tree.

Section 7. Disposal or Removal of Prospector Soil: All soil disturbed or removed from Prospector, unless a representative sample tested at a State certified laboratory determines the soil is not hazardous waste, shall be disposed of only at a facility approved by the Utah State Department of Health, or covered on site with six inches of approved topsoil and re-vegetated as required by this Ordinance.

Section 8. Dust Control: Contractor or owner is responsible for controlling dust during the time between beginning of construction activity and the establishment of plant growth sufficient to control the emissions of dust.